

Assessment and Recommendations

A. Methodology For Family Court Self-Assessment

This assessment focuses on the three family court projects implemented in 2000 as Phase 1 of the Family Court Project (Johnson, Monroe and Porter Counties) and the six additional family court projects implemented in 2002 as Phase 2 (Putnam-Owen Multiple County Project; Boone-Montgomery Multiple County Project; and single county projects in LaPorte and Marion Counties). The assessment also addresses the function and effectiveness of the Indiana Family Court Project at the state level.

1. Process and Outcome Considerations

The assessment of the pilot projects includes both "process" and "outcome" aspects. The "process" assessment focuses on the ability of each pilot county to initiate changes necessary to better serve children and families. It notes the ability of the court to design programming, implement the programming, and create written policies, procedures, and forms necessary to transfer the programming to other counties. The assessment addresses the organizational structure that is most conducive to expeditious and permanent program development, and the role of the Family Court Rules to overcome perceived or actual legal barriers to coordinating multiple case families. The assessment also considers critical factors of judicial leadership, local attorney involvement, and community participation in creating desired change. It considers the cost and potential funding for long term programming.

The "outcome" based assessment considers the Values and Outcomes statement written cooperatively with the original three family court projects. It addresses whether the project

programming satisfies these desired values and outcomes.

2. Information Sources for Evaluation

The following statistics and information sources were considered in the assessment:

Statistics

The pilot counties maintained an information sheet on each family served and compiled this project data on a spreadsheet. Data tables were created to show the numbers of court cases per family, the most commonly occurring case types in multiple case families, sources for identifying multiple case families, and the "at-risk" social factors of families served. Data was also collected on the models of case coordination developed in the pilot counties and the use of non-adversarial dispute resolution, service referral, and other specialized programming. Costs and funding sources for each pilot project were also tracked.

Twice annual family court meetings

Twice annual family court meetings were attended by the project judges and staff members and by representatives of the statewide Family Court Task Force. The meetings provided opportunities for pilot counties to share program ideas, court forms, and to address problems encountered. Outside speakers gave presentations on funding issues, community collaborations, evaluation methodologies, and the national family court perspective. Detailed minutes were distributed to all project counties noting new program developments and areas of concern.

Pilot county family court reports

The Phase 1 pilot projects used standardized forms to file detailed reports approximately every six months, beginning in June of 2000 and continuing to the present. The Phase 2 pilot counties filed implementation reports three months after their designation as pilot counties, and filed six month reports thereafter. The report formats for the Phase 1 and 2 counties were modified as the projects progressed through design, implementation, evaluation, and monitoring stages of development. In addition to financial and statistical data, the reports included narratives on task implementation, values and outcomes achieved, and examples (without names) of multiple case or complex custody families served during the six month period. The reports also included copies of new forms and policies and procedures, and minutes of local Family Court Advisory Board meetings.

Project manuals and brochures

The original pilot counties submitted in October of 2001 a manual of forms and documents which included the following: policies and procedures; case coordination report forms; form letters, notices and orders; brochures or brief executive summaries outlining basic programming; and all other additional documentation necessary to duplicate their programming in other counties. In January 2002, the major components of each manual were assembled into a Master Manual and distributed to the new Phase 2 counties to assist them in program development. In October 2003, the Phase 1 counties submitted updated manuals and the Phase 2 counties submitted new manuals. These manuals will be compiled and provided to the Phase 3 family court counties when they are selected.

Participant surveys

Each pilot project designed its own survey form to obtain feed back from attorneys, parties, probation officers, child protection case managers, child advocates, and other service providers involved in the pilot project. Each county chose its own questions and process for survey distribution. The one page survey forms generally asked if the survey respondent had been involved in a pilot project case and whether the project had improved the court process and/or service delivery for the family. Some counties distributed all survey forms at "one point in time" to collect generalized input from family court users. Other counties distributed case specific survey forms as family court cases were closed. The surveys were treated as an information source rather than as a technical evaluation tool. No formal calculation of return rate or responses was made. Pilot counties filed copies of completed survey forms with their October 2001 family court reports, and each county included its own assessment of the survey results in its family court report narrative.

Some Phase 1 and 2 counties use exit surveys on an ongoing basis. All the counties will utilize some assessment or survey process in the spring of 2004.

Pilot county site visits and 2001 independent evaluation

Grant funds were obtained to hire attorney and family court expert Jeffrey Kuhn to evaluate the three original pilot projects and to identify the major issues in juvenile and family law case processing statewide. In 2001, Mr. Kuhn and the Indiana project consultant conducted two separate site visits in each pilot county. Site visits varied in each county, but generally included interviews with judicial officers, court staff members, local attorneys, and representatives from probation, child protection and community service providers. Mr. Kuhn conducted an analysis of each county's data.

In March 2001, Mr. Kuhn, facilitated statewide focus groups and written surveys on family justice needs. Mr. Kuhn submitted his final report and recommendations in the summer of 2001, entitled *Independent Evaluation: Indiana family Court Initiative*.²⁶

In the fall of 2002, the Indiana project consultant began another round of site visits with the Phase 1 and 2 counties. The site visits varied in each county but usually included three to four, one-hour meetings with the following groups of people: judges; family court staff members; attorneys; and government, public, and private service provider agencies. Written summaries of the site visits were distributed to each pilot county, particularly noting areas of accomplishment and concern.

B. What We Have Learned

1. Incidence of Multiple Case Families and Unmet Needs in Family Litigation

The data from the individual project counties, as well as the results of the statewide focus groups and written surveys, validate the basic assumption underlying the Indiana Family Court Project that a significant number of families have multiple cases pending simultaneously in the court system.²⁷ The December 2002 statistics from the original pilot counties illustrate this point: Johnson County (123 families generated 321 cases); Porter County (128 families generated 488 cases); and Monroe County (76 families generated 235 cases). Factoring in the data from the Phase 2 family court counties, the seven largest pilot counties averaged between 2.65 court cases per family to 5.92 cases per family with the mode being 3.78 court cases per family. The family court data also showed that multiple case families demonstrate a high incidence of social factors that place children at risk, such as domestic violence, substance abuse, mental illness, child

abuse or neglect, severe parental conflict, and poverty issues. The data suggests that this population may have a high need for monitoring, prevention, or treatment services. Also, the anecdotal data showed unmet needs for affordable non-adversarial dispute resolution and service referral programming.

Additionally, the case law illustrates the social and legal problems that arise from failure to coordinate multiple cases involving the same child. Some examples include, CHINS and adoption cases on the same child in different courts, foster parent and grandparent adoption petitions on same child in different courts, separate paternity and adoption petitions regarding the same child in different courts, and CHINS and custody litigation involving the same child in different courts. Early identification of multiple case families and basic coordination efforts should avoid or reduce these situations.

2. Hallmarks and Strengths of the Indiana Family Court Project

The following are the hallmarks or strengths of the Indiana Family Court Project.

Family Court Concept

The Indiana Family Court Project is not a particular judge or building where all family law cases are heard. It is not one model or process for family law cases. Instead, it is a concept involving strategies and programming to better serve children and families. It encourages coordination of multiple case families to avoid inconsistent orders and uninformed decision making. The concept promotes a non-adversarial approach to family litigation.

Targeting special needs families

The Family Court Project does not seek to serve all families in all family and juvenile law litigation. The Project focuses on families with multiple cases, families with

²⁶ See Chapter 4 of the report for detailed discussion of the Independent Evaluation conducted by Jeffery Kuhn.

²⁷ See Chapter 2 of this report at section B. for a thorough discussion on the incidence of, and concerns regarding families who have more than one case pending in the legal system, and the need to provide case coordination for these families.

child safety and stability issues, and families without legal representation or without adequate funds to access the legal system and needed services.

Project individuality

Pilot counties are encouraged to create case coordination models and other programming consistent with their individual needs and resources. Pilot counties maintain accountability and a measure of standardization through the state Grant Terms, twice annual reports and family court meetings, and consultant oversight.

Family Court Rules

Family Court Rules were promulgated for the exclusive use of the pilot counties by the Indiana Supreme Court. The Family Court Rules deal with legal challenges to case coordination and information sharing for families with multiple cases pending in the legal system, including issues of jurisdiction, change of judge, judicial notice, and confidentiality.

State family court personnel

The Family Court Project utilized a private consultant to facilitate the development, implementation, and oversight of the pilot projects. The consultant was able to do the following: assist and encourage the pilot counties by sharing successful models, forms, and processes to expedite program development and to avoid "reinventing the wheel"; assist pilot courts to develop community ties essential to developing a family court culture and building future funding opportunities; hold accountable the pilot counties by monitoring for compliance with grant terms, data collection, and reporting requirements; and provide centralized leadership to ensure statewide coordination and an appropriate balance between standardization and flexibility throughout family court projects.

3. Systematic Development of County Pilot Projects and Community Involvement

A structured process was used in implementing the pilot county projects. Counties completed detailed written applications to serve as pilot courts. Selected counties signed Grant Terms and agreed to comply with project requirements. The Grant Terms were improved and clarified for Phase 2 of the Family Court Project based on the experience of the original pilot counties.

The pilot counties generally used a judicial-led team approach, referred to as a "project committee," to design and implement their projects. A project committee is composed of at least one judge and one or two other key persons, such as a court administrator or representatives from juvenile probation or child protection, a local attorney, or a major service provider. In each pilot county, staff was hired or reallocated from existing court or probation positions. The pilot counties also formed local Family Court Advisory Boards with community-wide representation.

With varying combinations of judicial and staff input, the pilot counties have accomplished all the necessary tasks. Each county has developed the administrative infrastructure necessary to implement its case coordination model or other programming. The project counties specifically adopted the Family Court Rules that addressed their needs. They conducted trainings and created brochures (or one page information forms) to educate the bar, court system, and relevant service providers on their programming. They developed and maintained data collection, and they filed detailed project reports and attended family court meetings approximately every six months.

4. Factors Contributing to Project County Success

Successful implementation of case coordination models and other family court programming involves a "process." Site interviews and family court meeting discussions emphasized the following factors as significant to project success:

Committed judicial leadership

A successful project requires a dedicated judge (or judges) who will allocate adequate time to thoughtfully plan programming, address legal barriers, network with the bar and larger community, and be easily accessible to staff persons responsible for implementing project programming. Judicial leadership is important to obtain community and government support for long term funding. Collegiality and the support of all the judicial officers in the county are important to case coordination efforts, even the support of judicial officers who do not hear family or juvenile law cases. For example, the cooperation of the criminal judges is critical to ensure that criminal courts send to the family court coordinator copies of criminal rulings that will impact decision making in the family's custody or child protection case.

Staff and resource development

Judicial leadership must clearly reallocate the responsibilities of an existing staff person, or hire a new person, to implement project programming and manage current and future funding issues. Experience has shown that judges cannot implement programming without staff persons specifically designated to the family court project. A staff person is needed to complete administrative tasks and to interface with lawyers, parties and service providers to explain and implement programming. Counties with staff persons specifically designated to grant writing were most effective at developing funding for ongoing and new programming. Also, judges with juvenile court jurisdiction have significant access to services for children and families, and have tended to be more comfortable (at least initially) with the process of designing and funding specialized programming for children and families.

Legal bar and community support

Significant involvement of the bar

association, government agencies, private service providers, and child advocate organizations has expedited and enhanced project development. Forming a local Family Court Advisory Board and maintaining public relations through media and community meetings garners public support for the family court project. Advisory Boards that meet regularly and have significant judicial leadership have been very helpful in generating program ideas, addressing funding issues, and sharing information about the pilot projects throughout the larger community. Also, the involvement of a pre-existing, interdisciplinary group focused on the needs of families and children in the county has expedited family court project development. Some examples of interdisciplinary groups are the Juvenile Summit in Porter County, ACT in Johnson County, and Wrap Around in Monroe County.

5. Types and Effectiveness of Family Court Programming

The pilot counties developed programming in three broad areas: coordination of multiple case families; non-adversarial dispute resolution; and specialized services for at-risk, high-risk, and/or low income families. Effectiveness of the programming was measured by satisfaction of the values and outcomes established at the outset of the Family Court Project. The values are:

- Integrated information systems
- Coordination and consistency
- Expedition and timeliness
- Safe and healthy children and families
- Non-adversarial dispute resolution
- Transferability of programming to other counties

Phase 2 of the Family Court Project sought to meet the additional value of effectiveness and expediency in pro se litigation, and the goal of developing multiple county family court programming.

The three program areas are reviewed next in

conjunction with the family court values. A section on the transferability of the programming to other counties is included at the end of this discussion.

Coordination of multiple case families

The pilot counties created two different models to coordinate multiple case families: (1) transfer the family's multiple cases to the same judicial officer (referred to as *one family—one judge* or *case bundling*), or (2) provide basic information on the family's multiple cases to all the judges, attorneys, parties and service providers involved with the family's multiple cases without transferring the cases to the same judge (referred to as *information sharing between multiple courts* or *case tracking*). Direct services case management and non-adversarial dispute resolution were also used as coordination mechanisms for some multiple case families. All the pilot counties utilize one or more aspects of these case coordination mechanisms.

Although the two models of case coordination do not provide all the same benefits, both models create "opportunities" for more informed decision making about families and satisfaction of family court values of consistency, expediency and service coordination. For example, case coordination reports listing the cause numbers, hearing dates, and summarizing orders in all of the family's litigation should avoid scheduling conflicts and delays, enable more informed decision making by judges and attorneys, and help the family's service providers avoid service gaps or redundancies. Transferring all of the family's cases before the same judge provides the opportunity for case consistency and coordination. Taking judicial notice of the orders in the family's multiple cases pursuant to Family Court Rule 4 should better inform judges and parties about safety or stability issues impacting the family.

Each pilot county is very supportive of the case coordination model it uses. It does not seem feasible or necessary to try to select one model as superior to the other.²⁸ Site visit

interviews, pilot project report narratives, and participant surveys reflected strongly held beliefs in the pilot counties that their case coordination efforts resulted in more informed decision making and service coordination for families. Family court judges and staff members consistently expressed commitment and enthusiasm for case coordination as a better way to serve children and families. Project personnel reported that coordination of services is particularly effective and expeditious for families without legal representation. Just having information about the family's other litigation, even without more, is perceived by the project counties as a powerful tool for better serving families. However, lest the picture appear too rosy, it is important to note that every site visit revealed pockets of judges, attorneys, or service providers who were not aware of, or were not otherwise availing themselves of the case coordination systems and the Family Court Rules.

With regard to case expedition, Johnson County schedules combined status hearings in multiple case family litigation within 10 days of the cases being transferred to the family court, and it reports that it has been able to expedite about a fourth of the family court case load by processing those multiple cases to closure in an average of 39 days. Monroe County reported time savings through concurrent hearings. Participant survey responses indicated that combined status hearings and concurrent hearings before the same judge expedited and simplified the court process for some multiple case families and their attorneys. However, it should be noted that disposition data from the pilot projects indicates that it is not always possible or desirable to expedite complex and troubled families too rapidly through the system. Multiple case families, particularly those involved in child protection litigation, often have serious problems requiring extensive service delivery and monitoring.

²⁸ See Chapter 2 of this report at section B.2. for discussion on factors inclining court systems toward the one family-one judge model or the information sharing model.

Non-Adversarial Dispute Resolution

Affordable, non-adversarial dispute resolution has been the fastest growing programming within the family court projects. This programming can avoid lengthy court hearings and the tensions and harms of the adversarial process for families. Five family court projects provide non-adversarial dispute resolution, and three others are developing it. 2003 legislation allows counties to collect an alternative dispute resolution fee to subsidize mediation and facilitation for low income families.²⁹ This will further enhance the ability of family courts to provide affordable, non-adversarial dispute resolution.

The non-adversarial dispute resolution programming varies between the project counties. Some family courts provide traditional mediation in child custody and visitation cases. Other projects use a more flexible dispute resolution model referred to as "facilitation" in custody and juvenile matters. The facilitation model has been particularly effective in child protection cases (CHINS), as it promotes increased information sharing among service providers and parent involvement in reunification efforts and permanency planning. Facilitation meetings have also been used to resolve separate criminal and CHINS cases involving the same incident of child abuse or neglect, and other multiple litigation situations.

The family court projects vary with regard to who conducts the actual mediation or facilitation meetings. Several counties pay local attorneys at an hourly rate, on a case-by-case basis, to conduct these meetings. Other counties utilize family court personnel or local social service providers who are trained in family law mediation. Many counties use a combination of the above, and also involve volunteer attorneys and law students.

Another important variable in program delivery is the use of an "intake" meeting, which is particularly helpful with pro se families. Family court personnel conduct pre-

mediation intake meetings to assist parties understand, schedule, and prepare for mediation. This time saving device can screen out inappropriate referrals, and ensures that parties come to the mediation meeting better prepared and with necessary financial documents. To promote informed decision making, intake personnel also conduct record searches to provide the mediator and parties with information on the family's other pending litigation. Family court personnel also coordinate post-mediation activity to ensure that agreements are presented expeditiously to the court for approval or necessary hearings are scheduled.

Pilot project data shows significant positives in alternative dispute resolution. Putnam County's facilitation program in pro se custody disputes, CHINS, and termination of parental rights cases has an 83% success rate in obtaining agreements. Porter County's paternity mediation project, which utilizes Valparaiso Law School students and local attorney volunteers, has a 90% settlement rate. Porter County's divorce custody mediation project has a 58% settlement rate. Since it began its facilitation programming in January 2003, La Porte County obtained agreements in 70 of the 75 CHINS cases referred to the program, involving 119 children. Also, these programs serve a significant number of pro se parties. Eighty-seven percent of the fathers in the Porter County paternity mediation project were unrepresented, and in 64% of the Putnam County facilitations at least one party was pro se. Regarding case expedition, the facilitation projects in Putnam and Owen Counties have an average case disposition of 68 and 59 days respectively on closed family court proceedings. However, the average length of the open family court proceedings is 120 days. It may take substantially longer periods of time to set up the facilitation meeting in complex CHINS and termination cases, and to schedule the court hearings necessary to approve agreements.

²⁹ See IC 33-4-13.

Specialized services for at-risk, high-risk, low income, or pro se families

Pilot project judges and personnel indicate that services are often not available for low income litigants in divorce, paternity and protective order cases. Some of these families demonstrate behaviors highly detrimental to child safety and stability, but they are not eligible for services through the local office of family and children or probation department. The pilot projects developed service referral programs and "resource rooms" to serve these families. Also, the family court projects developed direct services case management programming for high-risk families. This programming may include a wide variety of services by the family court staff, including home visits, "mini" needs assessments, regular meetings with parties to explain court orders and help family's access services, and informal mediations to settle minor disputes for litigious families. Counties have also developed specialized programming for protective order families and families without resources to initiate necessary family law litigation. Two counties have partially or fully incorporated their truancy programming into their family court projects to ensure a "family approach" to school problems. Affordable substance abuse testing and treatment continues to be an unmet service need in family law cases, and it is anticipated that Phase 3 of the family court project will introduce "family focused" drug court programming.

The broad range of service programming provides the opportunity for families to receive needed services and for the court to facilitate and monitor service delivery. Site visit interviews and participant surveys reflected strong support for service programming. A few representative comments are noted here. Porter County judges and attorneys commented on the benefits of the service referral programming that keeps judges out of the social work business, and ensures that at-risk families get prompt access to court ordered services. Participants in site visits in

Monroe County indicated that the family court process plays a significant role in coordinating the family's multiple service providers and attorneys.

The family court projects have not generally maintained statistics on all services provided for families assigned to the family court project, but will begin to do so in 2004. However, there are some available statistics. The Porter County service program, referred to as the Community Access Center, was in contact with 207 families for service referral and other needs since its implementation January 2002. Thirty-three families were referred to the Access Center for more intensive case management services. Monroe County provided direct services case management in 13 complex and high-risk custody cases.

Transferability of pilot programming to other counties

With regard to transferability of pilot project programming, the Phase 2 pilot projects have relied extensively on the processes created by the original family court projects to create their own projects. LaPorte County adopted the *information sharing between multiple courts* model from the Porter County pilot project. Marion, Boone, and Montgomery Counties adopted aspects of the *one family—one judge* model from Johnson and Monroe Counties, but also use the *information sharing* model as appropriate for certain families. Putnam County's facilitation programming has been transferred effectively to Owen County.

The Phase 2 counties adopted and adapted the written policies, procedures, and forms created by the original pilot counties. Also, the original counties served as mentors to the Phase 2 counties when asked, and provide training on process and problem areas at the twice annual family court meetings. Some project staffs are more effective at mentoring than others, and future efforts at the state level to facilitate mentoring will be helpful.

6. Challenges to Case Coordination and Pilot Project Development.

The Indiana Family Court Project has faced several challenges in the last four years. Some of the anticipated challenges turned out to be insignificant, some were resolved with system communication and cooperation, and some will be resolved in the future with technology advancements. Others will be resolved over time, with a gradual shift away from the "adversarial" approach to a "family-focused problem-solving" approach. None of these challenges presents a permanent barrier to effective family court functioning. The major challenges are outlined below.

Legal issues in project counties and across the state.

The *information sharing between multiple courts* model and the *one family—one judge* model create legal challenges with regard to jurisdiction, confidentiality, judicial notice, judicial prejudice, and change of judge. In July 2000 the Indiana Supreme Court adopted four Family Court Rules for the exclusive use of the project counties.³⁰ The Rules addressed most of the legal issues. The experience of the pilot projects indicates that the Family Court Rules are being used in the project counties, particularly the rules regarding jurisdiction, judicial notice, and concurrent hearings.

Despite the Family Court Rules, the pilot counties continue to raise questions about the breadth of the judicial notice provision. There are concerns about the Change of Judge "for cause" rule, particularly the application of this rule to termination of parental rights cases. Attorneys also raise ethical issues on required disclosure of information regarding their client's other litigation, and the release of confidential juvenile records to persons who are parties to only some of the family's multiple litigation.

It is also significant to note that Family Court Rules have no impact in non-project counties. Data from the statewide focus

groups and written surveys indicate that attorneys throughout the state may be unclear as to when and how the family's multiple cases can be transferred to the same judge, and/or otherwise coordinated. There are frequent questions about how information from one case can be utilized by the judge and parties in another case. Attorneys around the state continue to raise confidentiality and judicial prejudice as challenges to coordination of the family's multiple cases.

Jurisdictional issues continue to challenge coordination efforts statewide, as well as local rules and policies on judicial case assignment. Indiana lacks a comprehensive scheme to coordinate jurisdiction and case assignment in juvenile, custody, and probate cases involving the same child. While the pilot projects have made inroads with regard to case coordination on a county by county basis, statewide attention to these issues is also appropriate.

Technology and identification of multiple case families

Effective processing of multiple case families is dependent upon early identification of these families and the court's ability to coordinate and promptly provide adequate notice of multiple proceedings to multiple parties. Many court systems have separate databases for juvenile, civil, and criminal cases. Even in those systems with integrated databases, slight differences in case designations and party names make identification of related family cases difficult. Current technology requires significant staff labor to identify multiple case families through court record checks.

The family court project consultant and a significant number of pilot project judges and personnel have participated in two discovery sessions with the Supreme Court's Judicial Technology and Automation Committee (JTAC) and the vendors for the new statewide case management system. These sessions have noted the future availability of unique "identifier" numbers for every person in the

³⁰ See Chapter 1 at section F. for list of Family Court Rules.

court system, a "family court jacket" to track and store data on multiple case families, access to court orders from other courts within and outside of the county, automated notices in the family's multiple cases, and Internet links to significant child serving government agencies and their databases. These processes can substantially aid in automated identification, coordination, and processing of multiple case families.

In addition to time consuming record searches, the pilot projects have used several alternative methods for identifying multiple case families, including: requiring attorneys to list all of the client's pending litigation in the case appearance form; judicial inquiry at preliminary hearings about potential multiple cases; comparing incoming domestic violence police reports and child abuse reports against existing court databases; and referral or identification forms that can be used by any court staff member, attorney, agency or party to identify eligible families. These methods have had varying degrees of success and should be pursued to the extent they promote full disclosure and information sharing in family law matters. Attorneys and judicial officers should be particularly encouraged to identify multiple case families as "best practice" in order to better serve families and children.

Project resistance

First and foremost it should be noted that most of the anticipated resistance to family court programming never materialized. Judges, lawyers and staff persons adjusted and generally appreciated the changes. However some resistance did occur and effective action was taken to correct the situations and avoid future resistance. The projects have shown that resistance of court staff to new processes can be overcome by judicial leadership and the involvement of court staff in implementing changes. The experience of the family court counties has been that attorneys are generally very supportive and welcome the opportunity to assist their clients through case coordination and affordable service delivery.

However, occasional attorney reluctance or resistance to new procedures and programs was dealt with by the following: involving bar leadership in project development and rule subcommittees; providing Continuing Legal Education (CLE) opportunities to explain project processes and limits; creating clear family court eligibility criteria and assignment criteria; and "word of mouth" advertisement of project successes and benefits. Resistance to specific projects or processes has usually dissipated through minor modifications and phase-in approaches to project implementation. Resistance to non-adversarial dispute resolution dissipated by involving attorneys as volunteers or paid mediators for the family court. Several family courts reported that their programming helped create a "culture" of non-adversarial dispute resolution within the legal community.

Judicial Time

Judges in the original pilot counties acknowledge that development and implementation of a pilot project can be time consuming. However, state family court personnel and mentoring counties can reduce the time burden for new pilot counties. Ready access to consultation and copies of tested policies, procedures, and forms avoids time wasted in "reinventing the wheel."

Additionally, use of an effective administrative point person reduces judicial time in the pilot county. The need for significant judicial input reduces when programming is fully implemented.

Funding

Funding is an issue for all programming. Each of the Phase 1 pilot counties received start-up funds of approximately \$50,000 per year for a two year period. Phase 2 counties received between \$10,000 to \$45,000 per year for a two year period. Phase 1 and 2 will continue to receive some reduced family court grants through 2005 to help them transition to permanent local funding.

Projects are making significant efforts

toward becoming self-sufficient.³¹ The project counties have used different methods to obtain resources for their programming. Porter County helped fund some of its family court programming by collaborating with existing community resources. The local mental health center helped fund the initial family court coordinator position and a collaborative grant between the court and mental health recently helped fund the Community Access Center. Porter County has also been successful in obtaining federal, state and local grants, including Court Improvement Project grants, Criminal Justice Institute delinquency and prevention grants, and local United Way funding. The Porter County family court project recently reorganized as a subdivision of the probation department to facilitate long term funding and administrative efficiency. Johnson and Monroe Counties worked with members of their County Councils and Boards of Commissioners to obtain local government funding for family court staff salaries and/or benefits. Marion County collaborated with Child Advocates, Inc. to obtain funding from the Criminal Justice Institute, and hopes to team with the Indiana University School of Social Work in developing a service referral program. Owen and Putnam Counties worked collaboratively with their local offices of family and children to underwrite the cost of facilitations in CHINS, termination of parental rights, and pro se custody cases. They also sought community foundation grants underwritten by the Lilly Endowment. Putnam County charges recipients for facilitation costs on a sliding fee scale, and the family court administrator is diligent in fee collection. Porter and Monroe Counties collaborated with the law schools to utilize volunteers to provide mediations for low income and pro se families in paternity cases.

Experience shows the benefits of devoting family court staff time to grant writing and

community collaboration for program funding. A state level Resource Development Position could provide critical assistance to counties as they seek to develop a permanent funding base for family court programming.

C. Recommendations

Based on what we have learned, the following recommendations are offered to the Indiana Supreme Court.

1. Incorporate the Family Court Concept into the Indiana Legal Culture: Create the "Family Court Initiative."

The pilot courts have demonstrated that the judicial system can focus on the "whole family" within the parameters of due process and fairness, and that this approach can be more efficient and effective for families and the legal system.

As developed by the pilot projects, the "family court concept" includes **(a)** coordinating multiple case families in an efficient and expeditious manner, to avoid duplicate hearings and inconsistent orders for children and to ensure more informed decision making, **(b)** promoting a problem-solving and full-disclosure approach in family law matters, **(c)** increasing the availability and affordability of non-adversarial dispute resolution, **(d)** assisting at-risk families to obtain needed service delivery and compliance with court orders, and **(e)** enabling pro se families to proceed more expeditiously through the court system.

The "family court concept" should be recognized and adapted into our legal culture. Renaming the Family Court Project to the "Family Court Initiative" will indicate endorsement and adoption of the family court concept.

³¹ See Chapter 1 section G. on Project Funding

2. Create a Family Court Coordinator Position within the Division of State Court Administration.

Implementation of the Family Court Project has revealed the essential need for permanent state personnel to teach, assist, encourage, and mentor pilot counties, and to hold them accountable to "best practices" and project requirements. A permanent Family Court Coordinator position within the Division of State Court Administration will assist new counties to develop the "family court concept" appropriate to their individual community needs. This would include direct assistance to the counties to develop case coordination systems, affordable mediation, service referral, case management for at-risk or chronic families, and/or other specialized programming or assistance for pro se families. The Coordinator will facilitate the exchange of information between the original and new pilot projects, and provide copies of tested policies and procedures and standardized forms that can be easily replicated in new projects.

3. Create a Grants Person Position within the Division of State Court Administration.

The projects have demonstrated that financial assistance is significant to initiating projects and later transitioning them to local resources. Program funding is available through a variety of sources but counties often lack the "know how" to access those resources. It is recommended that a second permanent position, a Grants Person, be created under the direction of the Division of State Court Administration to (a) obtain federal and state-wide grants to help implement case coordination, mediation, and service programming in new counties, and to (b) assist counties to develop a base of local funding and grants. A centralized and coordinated approach to grant funding will be more successful in garnering large grants and avoiding unproductive grant competition between counties.

4. Expand Affordable ADR and Service Referral Programming.

Affordable Alternative Dispute Resolution (ADR) and service referral programming for pro se and at-risk families was identified by the Family Court Project participants as highly effective and much needed. This effective programming should be spread to additional counties. Also, the ADR programming should be further refined to resolve ethical and administrative issues that arise when parties have no legal counsel, and to better define and standardize the practice of "facilitation." The Supreme Court should further explore the use of Senior Judges as an ideal source of affordable mediators for indigent parties.

5. Set Policies, Procedures, and Goals for Admitting New Counties into the Family Court Initiative.

The Supreme Court should set policies and long term goals for maintenance of the existing family court projects, and creation of new projects throughout the state. Policies for new project development should include application procedures, requirements, guidelines, state oversight, applicability of Family Court Rules, and data requirements. Goals may include a reasonable rate of expansion, and cyclical reassessment of family justice needs on a statewide basis. Although program innovation and flexibility should be encouraged, Family Court expansion should remain faithful to the original initiative of coordinating the litigation of multiple case families. Each family court should utilize some aspect of the *one family—one judge* or *information sharing* models to avoid inconsistent court orders and uninformed decision making for multiple case families.

6. Coordinate with JTAC.

Integrated information systems and other technology are needed to identify, link, track, and ensure adequate notice in multiple case family litigation. Internet and other access

technology can expedite incoming and outgoing information flow, thereby ensuring timelier information retrieval for the court and parties, and facilitating court ordered service delivery to families and children. The Family Court Initiative should work closely with the Judicial Technology and Automation Committee (JTAC) in the development and implementation of statewide case management systems and other automation. State Family Court personnel should work with individual counties as new case management software is implemented in conjunction with family court projects.

7. Convene Statewide or Regional Family Court Symposium.

A symposium of judicial, bar, government agency, and legislative leaders is needed to review the progress of the family court projects and to identify the future needs of the court and the community in family law issues. The symposium could follow the format of the statewide Alternative Dispute Resolution (ADR) Conference, which serves as an annual opportunity to address the "state of ADR", new issues and concerns, and make recommendations to the Supreme Court. Alternatively, the symposium concept could be organized as regional events. The Supreme Court's endorsement or sponsorship of the symposium would be significant to its success. In addition to educating on the family court concept and programming, the symposium could address the following:

Legal Issues in Case Coordination and Information Sharing

The Symposium could review our traditional practices, laws, and trial rules regarding jurisdiction, case transfer, case consolidation, judicial notice, confidentiality, status and settlement conferences, and change of judge, for the purpose of "brainstorming"

feasible modifications to simplify or expedite coordination of multiple case families and "best practices" for dealing with multiple case families. The experience of the Family Court Project and data from the statewide focus groups and written surveys indicate that attorneys are generally unclear how family law litigation can be transferred or coordinated. Also, attorneys raise ethical and confidentiality issues about sharing information with the court and other parties about their client's multiple cases, and raise concerns about cross-county information sharing.

Family Court Rules

The Symposium could review the Family Court Rules and make recommendations regarding the efficacy of the Rules, the need for modification, the policy and procedure for extension of the Rules to additional counties, and the potential permanency of the Rules.

8. "Seed" Grants to New Project Counties.

Seed grants from the Supreme Court will provide a fiscal incentive to initiate new family court projects and encourage their compliance with state project guidelines and requirements. This modest funding will signal the Supreme Court's support of the family court concept to local governments and bar associations, help with "start up" expenses, and can be used as "match money" to obtain other grants. It will provide some cushion as counties seek to reallocate resources, collaborate with community agencies, and access other funding streams for permanent project maintenance. Also, existing family court projects could benefit from modest continued funding as they transition to permanent funding sources, and/or until a state Grants Position is operational to provide needed assistance.

